



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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2010 DEC 14 AM 9:35

CELA

1 **MEMORANDUM**

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3 **TO:** The Commission
4
5 **FROM:** Christopher Hughey
6 Acting General Counsel
7
8 Kathleen M. Guith
9 Acting Associate General Counsel for Enforcement
10
11 **BY:** Mark Allen
12 Assistant General Counsel *MA*
13
14 Kasey Morgenheim *KM*
15 Attorney
16
17 **SUBJECT:** MUR 6275 (Massa for Congress)
18
19 **RE:** Revised Factual & Legal Analysis and Recommendations
20
21

22 The First General Counsel's Report in this matter dated September 27, 2010, contained
23 reason to believe recommendations regarding respondents' possible violations of 2 U.S.C.
24 § 434(b) in connection with a \$40,000 payment to Joseph Raccato and 2 U.S.C. § 439a(b) in
25 connection with the candidate's purchase of a vehicle from Massa for Congress.
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27 At the November 16, 2010, Executive Session, the Commission split 3-3 on a motion to
28 approve the recommendations contained in the First General Counsel's Report. See Certification
29 dated November 19, 2010.
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36 Accordingly, attached is the revised F&LA, along with the remaining recommendations
37 that appeared in the First General Counsel's Report, including that the Commission find reason
38 to believe that Massa for Congress and Beverly Massa, in her official capacity as treasurer,
39 violated 2 U.S.C. § 434(b) by failing to report debts and obligations in connection with the
40 \$40,000 payment to Joseph Raccato.
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4 A Statement of Reasons will be required from the Commissioners who voted not to
5 approve OGC's recommendation to find reason to believe that Massa for Congress and Beverly
6 Massa, in her official capacity as treasurer, and Eric Massa violated 2 U.S.C. § 439a(b) in
7 connection with the candidate's purchase of the vehicle.
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10 **RECOMMENDATIONS:**

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12 1. Find reason to believe that Massa for Congress and Beverly Massa, in her official
13 capacity as treasurer, violated 2 U.S.C. § 434(b) by failing to report debts and obligations
14 in connection with the \$40,000 payment to Joseph Racialto.
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16 2. Take no action at this time with respect to the allegation that Massa for Congress and
17 Beverly Massa, in her official capacity as treasurer, and Eric Massa violated 2 U.S.C.
18 § 439a(b) in connection with the \$40,000 payment to Joseph Racialto.
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20 3. Take no action at this time with respect to Joseph Racialto.
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22 4. Authorize the use of compulsory process in this matter, including the issuance of
23 appropriate interrogatories, document subpoenas, and deposition subpoenas, as necessary.
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25 5. Approve the attached Factual and Legal Analysis.
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27 6. Approve the appropriate letter.
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